

---

**Hunters' Guide:  
Understanding and Complying with  
California's Lead Ammunition Bans**

---

*Distributed by  
National Rifle Association  
&  
California Rifle & Pistol Association*

*Written and Produced by  
Michel & Associates, P.C.*

**MICHEL & ASSOCIATES, P.C.**  
Attorneys at Law

**COPYRIGHT NOTICE**

© 2015 Michel & Associates, P.C.  
All rights reserved

No part of the original content of this booklet may be reproduced or transmitted  
in any form or by any means known or which will become known,  
without written permission from Michel & Associates, P.C.

Permission is granted for reviewers and others to quote brief passages for use in newspapers, periodicals, or  
broadcasts provided credit is given to:

***Hunters' Guide: Understanding and Complying with California's Lead Ammunition Bans***

Distributed by  
National Rifle Association,  
California Pistol & Rifle Association

Written and Produced by  
Michel & Associates, P.C.  
Attorneys at Law

For information, contact:  
MICHEL & ASSOCIATES, P.C.  
Attorneys at Law  
180 E. Ocean Blvd., Suite 200  
Long Beach, CA 90802  
562-216-4444 Office ~ 562-216-4445 Fax  
www.MichellLawyers.com

---

---

**ACKNOWLEDGEMENTS**

Special thanks to attorneys Sean Brady, Lee Smith, and Matt Cubeiro for their efforts in putting this information together. Also the efforts and contributions of Ed Worley, David Halbrook, Rick Travis, Dan Reid, Roy Griffith, Joel Friedman, Tony Canales and Tom Pedersen are greatly appreciated.

---

---

**DISCLAIMERS**

Although every effort has been made to ensure the accuracy of the information contained inside this booklet, no claims, promises, or guarantees are made about the absolute accuracy, completeness, or adequacy of the contents herein. Nor are any made about the currentness of the contents herein; the law is always subject to change. Any explanatory statements in this booklet should not be taken as legal advice or a restatement of the law. Any liability that may arise from errors or omissions that may be contained in this booklet are expressly disclaimed. The information contained in this booklet is not a substitute for professional legal advice. Under no circumstances shall you hold the author responsible for any acts you decided to take or not to take. Any decisions you make, and any subsequent consequences, are your own. If you need legal advice or other expert assistance, please contact an attorney.

NO CLAIM IS MADE HEREIN AS TO THE VERACITY OR OWNERSHIP OF MATERIALS OBTAINED FROM THE STATE OF CALIFORNIA, INCLUDING ENTITIES THEREIN OR SUBSIDIARY THERETO.

**TABLE OF CONTENTS**

- I. INTRODUCTION .....1
- II. THE PLIGHT OF THE CALIFORNIA CONDOR.....4
- III. THE LATEST CAMPAIGN TO BAN LEAD AMMUNITION .....7
  - A. 2006 – Lobbying the Fish & Game Commission Fails.....7
  - B. 2007 – Assembly Bill 821 Bypasses a Skeptical Fish & Game Commission.....7
  - C. AB 821 Fails to Reduce Condor Blood-Lead Levels .....9
  - D. 2009 – Lobbying the Fish and Game Commission, Again .....10
  - E. Lead Bans Go to Court .....10
  - F. 2010 – Assembly Bill 2223 Fails.....11
  - G. 2012 – Back to the Skeptical Fish and Game Commission, Again .....12
  - H. 2013 – AB 711 and a Cover up by FWS .....13
  - I. Post AB 711 Adoption of DFW Regulations.....15
- IV. CURRENT AND FUTURE REQUIREMENTS OF LAWS BANNING THE USE OF LEAD AMMUNITION.....15
  - A. Definitions.....15
    - 1. Definition of “Non-Lead Ammunition” .....15
    - 2. What it Means to Possess a Firearms “When Taking Wildlife” .....17
    - 3. What is the California “Condor Range” .....18
  - B. Phased-In Lead Ammunition Restrictions .....19
    - 1. Phase 1 Effective July 1, 2015: Wildlife Areas and Ecological Reserves; and Nelson Bighorn Sheep .....19
    - 2. Phase 2 Effective July 1, 2016: Additional Restrictions for Shotguns .....20
      - a. Exception for Bird Clubs .....21
    - 3. Phase 3 Effective July, 2019: Statewide Lead Ammunition Ban For All Species.....22
  - C. Restrictions in the Condor Range .....23

**TABLE OF CONTENTS (Cont.)**

D. General Exceptions to Lead Ammunition Restrictions .....24

- 1. Possession of Concealable Firearms (Handguns) for Self-Defense Exception .....24
- 2. Temporary Exception for “Calibers” that Are Commercially Unavailable in Non-Lead Due to Federal “Armor Piercing Ammunition” Restrictions .....25
- 3. Law Enforcement Engaged in Official Duties Exception.....26

E. Penalties .....26

- 1. Other Considerations .....27
  - a. Water Fowl.....27
  - b. Military Lands/Bases .....27

V. CONCLUSION.....28

## I. INTRODUCTION

Over the years, radical environmentalists and anti-hunting advocacy groups have made various attempts to make the use of lead ammunition illegal as a way to drive up the costs of participating in hunting and the shooting sports, and thereby reduce public participation in those activities. California enacted its first lead ammunition restriction on hunters in October 1986. It was a somewhat limited one, largely duplicating the later enacted federal law requiring hunters to use non-lead shot for taking waterfowl. Because hunting waterfowl typically involves shooting over water, this ban at least had a plausible basis because depending on the specific circumstances and the local environment, lead can dissolve in water and may contaminate it.

In the years since 1986, California has continuously added restrictions on using lead ammunition for hunting certain species in certain areas. These efforts culminated with the passage of Assembly Bill 711 (“AB 711”) in 2013. With few and limited exceptions, AB 711 prohibits the possession of any ammunition that has *not* been certified by the California Fish and Game Commission (“FGC”) as “non-lead ammunition,” if possessed with a firearm capable of firing it, when “taking” *any* “wildlife” with a firearm throughout the *entire state*. Although AB 711 was passed in 2013, it isn’t fully effective until July 1, 2019. After it passed, the Fish and Game Commission adopted a three-phase implementation process for AB 711. The process adds more and more restrictions year-by-year, starting July 1, 2015 until the complete ban takes effect on July 1, 2019. So, in the years leading up to that total ban taking effect, lead ammunition will remain legal to possess or use in some situations.

Significantly, these phased-in AB 711 restrictions do not replace or eliminate the pre-existing lead ammunition restrictions for hunting certain species within the “California Condor

Range.” Rather, those restrictions are in addition to AB 711’s restrictions because they were created by laws that were passed before AB 711, and still remain in force now.

When these laws are taken together collectively, determining whether “non-lead ammunition” is required “when taking” wildlife with a firearm prior to July 1, 2019, can be tricky and will depend on one or a combination of the following factors: (1) where you are hunting; (2) what species of wildlife you are hunting; and (3) what type of firearm you are using. This guide is intended to assist California hunters in complying with these patchwork restrictions as they take effect.

Appendix A-1 provides a reference table showing whether non-lead ammunition will be needed for the type or location of the hunting being done. This *Phased Implementation Lead Ban Compliance Table* (Appendix A-1) can be used as a quick reference to determine whether a hunt will require “non-lead ammunition.” The table does not, however, provide an in depth analysis of the law.

To fully understand how to comply with all of California’s lead ammunition restrictions, it is also necessary to understand the meaning and scope of the relevant regulatory terms used. The remainder of this Guide details issues raised by the restrictions on lead ammunition. We explain below what the terms mean, what they leave for interpretation, and potential problems left unanswered. Hunters need to know the risks of engaging in certain activity beforehand.

To be clear, this Guide is *not* an endorsement of any limitation on the use of traditional lead ammunition. To the contrary, as explained below, the NRA and CRPA have fought for years—and continue to fight—against unscientific, political efforts to restrict the use of lead ammunition. This Guide is merely intended to aid hunters in navigating California’s complex

lead ammunition regime should they wish to use traditional ammunition for hunting there prior to July 1, 2019.

Please note that you should always try to consult the electronic, rather than a printed version of this guide. It is available at the website of the California Rifle & Pistol Association ([www.crpa.org](http://www.crpa.org)). Regulations change and information may be updated. This guide will be updated as necessary and appropriate.

If you do not see the answer to a question you have, or believe there is an error or omission in this guide, please let us know.

## II. THE PLIGHT OF THE CALIFORNIA CONDOR

The California condor is a vulture that once dominated the western skies. With its massive nine foot wingspan, the California condor is one of the largest flying birds in the world. A natural scavenger, the condor utilizes thermal air currents to soar while searching for the carcasses of large animals to sustain them.<sup>1</sup>

The condor's troubles began over ten thousand years ago when "megafauna" mammals such as mastodon, mammoth and sloth were lost as a potential food source. For a while, condor flocks could still survive in large numbers by eating whale and seal carcasses. But in the 1800's, commercial whaling and seal hunting made this food source scarce too, and from this time on the condor population would never again be able to sustain their pre-colonial numbers. The Condor population steadily declined during the 19<sup>th</sup> and 20<sup>th</sup> centuries.

Many factors, such as scientific collection for museums<sup>2</sup> and universities, exacerbated the condor's decline. By 1967 the California condor population was estimated at just 40 individuals. By 1982 only twenty-two California Condors survived in the wild.

In 1975, California adopted the Condor Recovery Program, which captured the remaining wild condors and brought them to breeding facilities at the Los Angeles Zoo and the San Diego Wild Animal Park. At that time, the entire population was believed to be only 27 birds.

Beginning in 1992, condors were reintroduced into California, Arizona, and Baja California, Mexico.<sup>3</sup> As of 2014, the Condor population has reached over 435 birds, with approximately 237 birds living in the wild.<sup>4</sup>

---

<sup>1</sup> California Department of Fish and Wildlife, *California Condor*, [https://www.dfg.ca.gov/wildlife/nongame/t\\_e\\_spp/condor/](https://www.dfg.ca.gov/wildlife/nongame/t_e_spp/condor/) (last visited October 12, 2015).

<sup>2</sup> See, e.g., P.J. Olney, et. al, *Creative Conservation: Interactive Management of Wild and Captive Animals* 412 (Springer Science & Business Media 1993), available at <http://tinyurl.com/q2dzkm4>.



Today condors in the wild are primarily fed at designated proffered feeding sites where condors are known to be exposed to the risk of attack by apex predators. Each carefully groomed proffered feeding site is surrounded by a fence to provide an early warning if a predator is approaching. Inside the fence a calf carcass is chained to the ground to prevent large predators like coyotes or bears from dragging the carcass away. The feeding sites are frequently supplied with fresh carcasses, so condors no longer need to soar for hours searching for and scavenging food on the ground. Human caretakers supply a “free buffet” lunch at the designated feeding sites.

Because of these proffered feeding stations, the condors’ current range is much smaller than their historic range was. The birds typically roost in the closest tall trees near the feeding sites so they can basically roll out of bed to be served breakfast. Ironically, the condor feeding program has become a disincentive for these once truly wild birds to adapt and reacquire their typical wild behaviors. But it does keep numerous wildlife biologists employed.

The sad reality is that the California condor is no longer truly wild. Even if the condor is living in the “wilderness,” the California Condor Recovery Program has essentially rendered the condor an expensive pet, kept in a bar-less outdoor zoo and cared for by humans.

[<http://www.huntfortruth.org/koford-letter/>]

For many years, Condor Recovery Program scientists have noticed elevated blood-lead levels in condors. In 2006, researchers at the University of California, Santa Cruz, published a

---

<sup>3</sup> California Department of Fish and Wildlife, *California Condor*, [https://www.dfg.ca.gov/wildlife/nongame/t\\_e\\_spp/condor/](https://www.dfg.ca.gov/wildlife/nongame/t_e_spp/condor/) (last visited October 12, 2015).

<sup>4</sup> United States Department of the Interior, Fish and Wildlife Service, *California Condor Recovery Program*, <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=89284&inline=1> (last visited October 12, 2015).

paper blaming fragments of lead ammunition.<sup>5</sup> The paper claimed that lead ammunition in gut piles left in the field from game taken by hunters using lead ammunition was the “principal source of elevated lead exposure” to condors, and threatened the recovery of the wild condor population. This paper gave advocate scientists, self-proclaimed “environmentalists,” and animal rights activists an opportunity to renew their campaign to ban hunting with lead ammunition using the plight of the condor as justification. That campaign continued even after flaws in the paper were publically criticized by pro-hunting groups like the NRA and the CRPA, researchers and scientists, and even California Fish & Game Commissioners studying the issue. As discussed below, there are multiple sources of lead in the environment, to which condors are constantly exposed. It is far from proven that lead ammunition fragments are the true source of condor lead poisoning. For more information on the science behind condor lead poisoning, visit

<http://www.huntfortruth.org/>.

---

<sup>5</sup> See Molly E. Church, et. al, *Ammunition is the Principal Source of Lead Accumulated by California Condors Re-Introduced to the Wild*, Department of Environmental Toxicology, University of California, Santa Cruz (2006), available at <https://www.peregrinefund.org/docs/pdf/research-library/2006/2006-Church-lead.pdf>.

### **III. THE LATEST CAMPAIGN TO BAN LEAD AMMUNITION**

#### **A. 2006 - Lobbying the Fish & Game Commission Fails**

At the insistence of animal rights extremist groups, in 2006 the FGC considered the issue of condor lead poisoning. The FGC and the California Department of Fish & Wildlife (“Department”) are charged with regulating hunting in California. Wildlife biology and other legitimate sciences are routinely considered in promulgating hunting regulations, and the FGC was the proper forum for the condor issue to be addressed. Pro-hunting groups, including the NRA and the CRPA, along with researchers and scientists, contested the claims of the anti-hunting groups at the FGC hearings, and refuted the flawed science proffered by the environmental and animal rights activists. (Learn more about this effort and view video recordings at [www.huntfortruth.org](http://www.huntfortruth.org).)

After hearing all the testimony and considering the scientific reports, several Commissioners expressed serious doubts about whether lead ammunition fragments in the gut piles of game animals left in the field by hunters was truly the cause of lead poisoning in condors. Those Commissioners stated that they believed the so-called “science” behind the campaign to ban the use of lead ammunition was questionable at best.

#### **B. 2007 – Assembly Bill 821 Bypasses a Skeptical Fish & Game Commission**

Faced with the FGC’s unwillingness to blindly accept their “science” and pass a regulation banning the use of lead ammunition for hunting, anti-hunting activists strategically bypassed the FGC and turned directly to the California Legislature. In 2007, Assembly Bill 821 (“AB 821”) was introduced by Assembly Member Pedro Nava.

The activists refused to wait for the FGC to study the issue further, and demanded that the Legislature pass AB 821 without any further scientific review. By claiming that something

needed to be done immediately to save the condors from extinction,<sup>6</sup> supporters and proponents of the lead ammo ban easily swayed pre-disposed democrat legislators looking for environmental political credentials. There was little, or no, questioning of the legitimacy of the “science” being used to justify the proposed law.

AB 821 was written to prohibit hunters in California from using lead ammunition in the condors’ primary habitat. The bill was predicated on, and ultimately passed, based on its proponents’ reliance on “research” offering unsound conclusions that implicated lead ammunition as the cause of lead-related symptomology and deaths in certain condors, while ignoring alternative sources of lead contamination from sources such as legacy leaded gasoline, lead paint, and other sources that were much more soluble and toxic than metallic lead ammunition. The Legislature was told that the science allegedly showing a link between lead ammunition and elevated condor blood-lead levels was “well settled.” Legislators didn’t question that claim.

Consequently, AB 821 was signed into law in October 2007.<sup>7</sup> AB 821 created Fish & Game Code section 3004.5, which, as of July 1, 2008, banned the use of any centerfire ammunition that is not certified as non-lead by the FGC when taking big game or coyote within specified areas known as the “California Condor Range.”

---

<sup>6</sup> Hunt for Truth.org, *Summary of Current Lead Ammunition Regulations in California* (July 17, 2013), <http://www.huntfortruth.org/legal/state-regulations/california/>; Tom Pedersen, *Lead Ammo Ban Proponents Avoid Science and Revert to Politics*, HuntForTruth.org (May 29, 2013), <http://www.huntfortruth.org/lead-ammo-ban-proponents-avoid-science-and-revert-to-politics/>.

<sup>7</sup> *The Ridley-Tree Condor Preservation Act* (AB 821, Nava, c. 570, Statutes of 2007); see California Department of Fish and Wildlife, *Ridley-Tree Condor Preservation Act. Sec 2.*, <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=82836&inline> ; see also Appendix A-2.

Following the passage of AB 821, in 2007 the FGC adopted three new regulations.<sup>8</sup> With their implementation, the FGC expanded lead ammunition restrictions in the Condor Zone to apply not only to the use of centerfire ammunition when taking big game and coyote, but to *all* ammunition and to the taking of nongame birds and mammals in the condor zone.

### **C. AB 821 Fails to Reduce Condor Blood-Lead Levels**

If the alleged correlation between hunters' use of lead ammunition and high blood-lead levels in condors were real, the implementation of AB 821 should have resulted in a significant decrease in the condors' blood-lead levels. It did not.

Despite the fact that the California Department wardens reported a near 100% compliance rate with the AB 821 lead ammunition ban in the years following its adoption, condor blood-lead levels remained the same, and actually slightly increased.<sup>9</sup> But instead of reevaluating AB 821 and investigating the true source of the condor lead poisoning, radical environmentalists argued instead to increase the scope of the lead ammunition ban, taking the position that the reason AB 821 failed was because it did not go far enough.<sup>10</sup> Sadly, this is an all too common opportunistic strategy response to legislative efforts that don't work.

---

<sup>8</sup> See Cal. Code Regs. tit. 14, §§ 350(a) (allowing only centerfire rifles with softnose or expanding projectiles, bow and arrow, or specific types of black powder firearms when taking big game), 350 (allowing only centerfire rifle, centerfire pistol, muzzleloading, shotgun slug, and rimfire ammunition certified as non-lead for the taking of big game and nongame birds and nongame mammals in the condor range), 475(f) (prohibiting the use or possession of projectiles containing more than one percent lead by weight while hunting any nongame birds or nongame mammals in the California condor range). These regulations were amended in 2015 as explained below in Footnote 49 of this guide.

<sup>9</sup> Hunt for Truth.org, *California Condor* (July 5, 2013), <http://www.huntfortruth.org/wildlife-and-species/california-condor/>.

<sup>10</sup> Hunt for Truth.org, *Summary of Current Lead Ammunition Regulations in California* (July 17, 2013), <http://www.huntfortruth.org/legal/state-regulations/california/>.

#### **D. 2009 – Lobbying the Fish and Game Commission, Again**

In 2009, activists began lobbying the FGC to expand the scope of the lead ammunition ban within the Condor Range to include additional game species.

The NRA and CRPA launched a public records act campaign seeking the records and data that the activists claimed supported such an expansion. After receiving tens of thousands of documents, experts working with NRA and CRPA were able to analyze the documents and present evidence at the August 2009 FGC meeting. The evidence showed first that the AB 821 lead ammunition ban was ineffective, again casting serious doubt on the alleged connection between condor lead poisoning and hunters' use of lead ammunition.

Scientific experts also discredited the key “science” used to justify lead ammunition bans in general, including the aforementioned U.C. Santa Cruz paper. The NRA and the CRPA were successful in preventing any expansion of the lead ammunition ban because their representatives and experts seriously debunked the scientific basis for the lead ban. Indeed, one Commissioner even commented that the evidence presented by the NRA and the CRPA's experts showed that the activists' campaign relied on “pseudo-science.”

#### **E. Lead Bans Go to Court**

Around the same time, proponents of lead ammunition bans began filing lawsuits against government agencies, claiming that the use of lead-based ammunition violated various federal environmental laws, including the Endangered Species Act. The purpose of these lawsuits was likely to test the waters, to see if litigation would provide a quicker alternative to the drawn out regulatory and legislative processes, for achieving their goal of banning lead ammunition nationwide.

The NRA was, and has been, at the forefront of the fight to protect traditional ammunition in the courts. The NRA, working with [Safari Club International](http://www.scifirstforhunters.org/) (<http://www.scifirstforhunters.org/>), successfully intervened in some of these lawsuits. The NRA was able to help the government win a lawsuit which sought to prohibit the use of lead ammunition for hunting in the Arizona Strip on the basis that the Bureau of Land Management violated the Endangered Species Act by allowing it to be used.<sup>11</sup> Similarly, in a subsequent lawsuit alleging the U.S. Forest Service violated the Resource Conservation and Recovery Act by adopting certain land management plans without adequately considering the alleged environmental impact from hunters' use of lead ammunition, NRA worked with the Safari Club International to again help the government defend its policy of allowing lead ammunition for hunting.<sup>12</sup>

#### **F. 2010 - Assembly Bill 2223 Fails**

Hedging their bets, and recognizing the resistance they were again getting from the FGC (which was actually examining the science carefully), anti-hunting activists introduced Assembly Bill 2223 (“AB 2223”) in 2010. AB 2223 prohibited the possession or use of shotgun shells containing lead projectiles when taking migratory game birds, resident small game, or nongame species in any “wildlife management area” within California.

The NRA and the CRPA opposed AB 2223, arguing that decisions about the use of ammunition should be left to the Department and the FGC, and that decisions must be based on

---

<sup>11</sup> *Center for Biological Diversity v. United States Bureau of Land Management*, No. 09-08011, 2011 WL 4551175 (D. Ariz., Sept. 30, 2011), see filings at: <http://michellawyers.com/elucasetracker/cbdvblm/>.

<sup>12</sup> *Center for Biological Diversity v. United States Forest Services*, No. 12-8176, 2013 WL 3335234 (D. Ariz. July 2, 2013), see filings at: <http://michellawyers.com/cbdvusfs/>.

sound science. The NRA submitted a letter<sup>13</sup> to the Senate Committee on Natural Resources and Water on June 17, 2010, highlighting the lack of scientific consensus that lead ammunition is a threat to condors, and NRA and CRPA representatives attended committee meetings to testify in opposition to the bill.

Thanks in part to those opposition efforts, AB 2223 died in committee.

### **G. 2012 - Back to the Skeptical Fish and Game Commission, Again**

Still not content with AB 821, in 2012 anti-hunting activists sought additional regulations prohibiting the use of lead ammunition for hunting and depredation on State Wildlife Areas and Ecological Reserves. During the August 2012 FGC meeting, the NRA and the CRPA again made a presentation exposing the contradictory data and the flawed scientific research used to support lead-based ammunition bans.<sup>14</sup> As a result, even some of the FGC's most avid lead ammunition ban supporters again began to question the "science" offered in support of the environmental-activists' campaign. As one Commissioner put it bluntly, "the science has got to make sense or else you're not going to sell the rest of us [on a lead ammunition ban], that's for darn sure."<sup>15</sup>

The FGC ultimately requested the formation of a separate committee, which would include several seats for NRA representatives and experts, to determine whether lead ammunition was actually the culprit behind the lead poisoning found in condors and other wildlife. The NRA and the CRPA welcomed the opportunity to debate the science, and the chance to gain access to scientific "data" used in questionable studies. This data was being withheld. But the data would finally have to be shown in the committee by the activist scientists

---

<sup>13</sup> A copy of this letter is available at <http://michellawyers.com/wp-content/uploads/2015/04/NRA-June-17-2010-Letterto-Senate-Committee.pdf>.

<sup>14</sup> A video of the August 2012 Commission meeting, which includes the NRA and CRPA presentation, can be viewed online at <https://www.youtube.com/watch?v=rQitYIIIfXu0&feature=plcp>.

<sup>15</sup> Commissioner Rogers at the August 8, 2012 Fish and Game Commission Meeting.



who published the studies at taxpayer expense, and were actively advocating for the lead ammunition ban. They refused to respond to Public Records Act requests made by the NRA and the CRPA.

Before the committee held its first meeting, proponents of the lead ammunition ban again circumvented FGC's review. They convinced a willing and unquestioning democratic legislator to introduce a bill that would take the issue out of the FGC's hands for good.

#### **H. 2013 - AB 711 and a Cover Up by FWS**

Assembly Member Anthony Rendon introduced AB 711 to the legislature in 2013. Recognizing the vulnerability of the "science" being used to establish that the California condor's high blood-lead levels were actually tied to the ingestion of hunters' lead ammunition,<sup>16</sup> Rendon quickly changed the narrative in support of the bill. Adopting classic scare tactics, he preposterously stated that allowing hunters to use lead ammunition "is the equivalent of spoon feeding lead to our children."<sup>17</sup>

Notwithstanding the ongoing scientific dispute at the FGC concerning the alleged environmental impacts from hunters' use of lead ammunition, and the NRA and the CRPA's vociferous opposition, the legislature approved AB 711, and in October 2013, Governor Jerry Brown signed it into law.

Significantly, Governor Brown signed AB 711 despite the fact that the scheduled public release of a key governmental report on the presence of lead in blood samples taken from California condors was improperly delayed. The Department report, which should have been

---

<sup>16</sup> See Hunt for Truth.org, *Hunting For The Truth About Condor Lead Poisoning* (May 7, 2013), available at <https://www.youtube.com/watch?v=e5Zki-boWXo>.

<sup>17</sup> Tom Pedersen, *Lead Ammo Ban Proponents Avoid Science and Revert to Politics*, Hunt for Truth.org (May 29, 2013), <http://www.huntfortruth.org/lead-ammo-ban-proponents-avoid-science-and-revert-to-politics/>.

produced in June 2013—*while* AB 711 was being debated in the legislature—was not made available for review prior to AB 711 landing on the governor’s desk.

AB 821 requires the Department to produce reports on the levels of lead found in condors for calendar years 2008, 2009, and 2012, with each report to be produced in June of the following year. The Department’s report is dependent on blood-lead data that is collected by California Condor Recovery Program partners, and transferred to the Department by the United States Fish and Wildlife Service (“Service”).

The 2008 and 2009 reports were both issued on time (in June 2009 and June 2010, respectively). Strangely, however, the 2012 report, due by June 30, 2013, was not timely produced. The Department stated that it had not received the necessary information from the Service, and that the Department’s report was therefore delayed until after AB 711 became law. But after the Department finally issued the report, which confirmed that condor blood-lead levels did not decrease but remained the same, it was then discovered that the Service had actually provided its information to the Department *before* AB 711 was signed into law, but the Department outrageously withheld its report for fear of interfering in the political process!<sup>18</sup> The NRA and the CRPA subsequently discovered internal email confirming this fact.

Consequently, without a scintilla of scientific analysis or scrutiny, and contrary to the findings in the Department’s 2012 report, California passed a complete ban on hunting with lead ammunition that will take full effect on July 1, 2019.

---

<sup>18</sup> An email from John McCamman, California condor recovery coordinator for the Fish and Wildlife Service, shows that the report was deliberately withheld until after AB 711 was passed by the legislator. See Valeria Richardson, *Obama’s Feds Hid Key Data to Get Califor. Lead Ammo Ban Passed in Backdoor Gun Control Move*, The Washington Times (Dec. 2, 2014), <http://www.washingtontimes.com/news/2014/dec/2/lead-ammunition-ban-passed-after-feds-withheld-key/#ixzz3L95YSQel%C2%A0>.

## I. Post AB 711 Adoption of Department of Fish and Wildlife Regulations

The NRA and the CRPA did not give up fighting for hunters' rights in California simply because AB 711 was signed into law. Following its enactment, the FGC was tasked with enacting regulations implementing AB 711 by July 1, 2019, or sooner, but only if *practical* to do so. Despite the general unavailability of alternative ammunition needed for hunting under AB 711, and other problems facing hunters as a result of the ban, the FGC adopted regulations to begin taking effect immediately. The NRA and the CRPA submitted comment letters<sup>19</sup> explaining that early implementation of the regulations would be illegal and impracticable given the current commercial unavailability of non-lead ammunition, but the FGC basically ignored those concerns. The regulations adopted by the FGC will incrementally phase in the lead ammunition restrictions over the years preceding full implementation on July 1, 2019. A public announcement was issued by the Department as a result of the change in law.<sup>20</sup>

Hunters in California must now be aware of each phase of the regulations, what each phase requires and when it will take effect.

---

<sup>19</sup> A Copy of this letter is available at <http://www.calgunlaws.com/wp-content/uploads/2012/07/NRA-Implementation-and-Phasing-of-the-AB-711-Regulations-Requiring-Non-Lead-Ammunition-for-All-Taking-of-Wildlife.pdf>.

<sup>20</sup> *Nonlead Ammunition Requirement is Upon Us, No Lead Ammo on CDFW Lands Starting July 1*, California Department of Fish and Wildlife (June 26, 2015), <https://cdfgnews.wordpress.com/2015/06/26/nonlead-ammunition-requirement-is-upon-us-no-lead-ammo-on-cdfw-lands-starting-july-1/>.

#### IV. CURRENT AND FUTURE REQUIREMENTS OF THE LAWS BANNING THE USE OF LEAD AMMUNITION

##### A. Definitions

###### 1. Definition of “Non-Lead Ammunition”

“Non-lead ammunition” is defined as “any centerfire, shotgun, muzzleloading, or rimfire ammunition<sup>21</sup> containing projectiles<sup>22</sup> certified pursuant to” the FGC’s “Non-lead Projectile and Ammunition Certification Process.”<sup>23</sup> It also includes any “[s]hotgun ammunition containing pellets composed of materials approved as nontoxic by the U.S. Fish and Wildlife Service.”<sup>24</sup>

To qualify as “non-lead ammunition” under either provision, the projectile must contain no more than 1% lead by weight.<sup>25</sup> A current list of certified non-lead ammunition can be found at the California Department of Fish and Wildlife’s website.<sup>26</sup> Significantly, California does not define “non-lead ammunition” based on whether or not a given projectile is actually “non-lead” (i.e., less than 1% lead by weight), but on whether the projectile has been properly *certified* as non-lead. Therefore, if it is *not* on the Department’s list of certified non-lead ammunition, it is

---

<sup>21</sup> The word “ammunition” is generally undefined throughout most of the California Penal Code, but it is given a specific definition in certain unrelated sections *See* Cal. Penal Code § 16150.

<sup>22</sup> “A projectile is any bullet, ball, sabot, slug, buckshot, shot, pellet or other device that is expelled from a firearm through a barrel by force.” Cal. Code Regs. tit. 14, § 250.1(b)(1).

<sup>23</sup> Cal. Code Regs. tit. 14, § 250.1(b)(2). *See also* Cal. Code Regs. tit. 14, § 250.1(f) for the Commission’s “Non-lead Projectile and Ammunition Certification Process.”

<sup>24</sup> Cal. Code Regs. tit. 14, §§ 250.1(b)(2), (3). *See also* Cal. Code Regs. tit. 14, § 507.1 (explaining that these materials include “bismuth-tin, steel, copper-plated steel, nickel-plated steel, tin-plated steel, zinc-plated steel, zinc chloride-plated steel, zinc chromate-plated steel, iron-tungsten, iron-tungsten-nickel, tungsten-bronze, tungsten-iron-copper-nickel, tungsten-matrix, tungsten-polymer, tungsten-tin-iron, tungsten-tin-bismuth, and tungsten-tin-iron-nickel or other nontoxic shot approved by the U.S. Fish and Wildlife Service . . .”). *See also* Code of Fed. Regs. Tit. 50, § 20.134.

<sup>25</sup> Cal. Code Regs. tit. 14, § 250.1(b)(4).

<sup>26</sup> California Department of Fish and Wildlife, *Certified Nonlead Ammunition*, <https://www.wildlife.ca.gov/Hunting/Nonlead-Ammunition/Certified> (last visited July 1, 2015).

illegal to use for hunting in situations where “non-lead ammunition” is required, even if it is actually less than 1% lead by weight!

Remember that it is the “projectile” that must be certified as lead free. So it is legal for hand-loaders to simply use a bullet or shot that has been certified lead free with a casing that is different than what such projectile is generally loaded into commercially. The problem with doing so, however, is that it may be difficult for a warden in the field to identify that the certified lead-free projectile is in fact one in that situation. There has been talk of non-lead detectors being utilized by wardens, but regardless, the detectors cannot confirm the projectile is certified. So before using hand-loaded ammunition, it is advisable to obtain written confirmation from the FGC that your hand-loads are certified and to carry the confirmation with you while hunting with that ammunition, especially if you casted your own projectiles.

## **2. What it Means to Possess a Firearm “When Taking Wildlife”**

One must possess both non-certified lead-based ammunition and a firearm<sup>27</sup> capable of firing said ammunition “when taking” wildlife<sup>28</sup> to be in violation.<sup>29</sup> The mere “possession of a projectile containing lead . . . *without possessing a firearm capable of firing the projectile* is not a violation.”<sup>30</sup>

To “take” means to “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.”<sup>31</sup> So if you are not engaging in those activities, the lead ammunition

---

<sup>27</sup> A “firearm” is “a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion.” Cal. Penal Code § 16520.

<sup>28</sup> It is unclear whether the term includes livestock animals (e.g., cow, goat, etc.). The term “wildlife” is not defined. Also, California Code of Regulations sections 250 through 640 set forth the requirements for hunting various types of game and non-game animals, none of which include livestock.

<sup>29</sup> Cal. Code Regs. tit. 14, § 250.1(c)(1).

<sup>30</sup> Cal. Code Regs. tit. 14, § 250.1(c)(2) (emphasis added).

<sup>31</sup> Fish & G. Code § 86.

restrictions do not apply. But the temporal scope of the concept of “taking” wildlife is unknown. When does a “taking” begin? Neither California’s codified law nor case law provides a firm answer. For example, it is unclear if one would be considered to be in the process of “taking” when at an established camp from which one will embark on a hunt or when in a vehicle going to such a camp or driving to hunting grounds from the camp, since these activities could be considered a necessary portion of “pursuing” game.

It is likewise unclear what “possess” means under the law. An individual is deemed to “possess” any item on his/her person or under his/her control, as “possession” can be either “actual” or “constructive.”<sup>32</sup> Though it is presumed the term “possession” is limited to an objectively reasonable definition (e.g., carried on the body or otherwise immediately accessible),<sup>33</sup> there is no guarantee as to how the Department (or a court of law) will interpret the key terms. Perhaps a firearm left at base camp or in a vehicle while hunting could be considered in one’s “constructive possession” while taking wildlife since it is under the person’s control and could be accessed during the hunt. In any event, it is unclear. So, be careful when taking lead ammunition with you on a hunting excursion in or near a place where there is a lead ammunition restriction.

### **3. What is the California “Condor Range”**

As explained in detail below, there are already existing lead ammunition restrictions in the “California Condor range” that sometimes exceed the newly adopted ones. So in determining whether a restriction applies, one of the questions is: Are you in the “condor range”?

---

<sup>32</sup> See *People v. Scott*, 45 Cal. 4th 743, 748 (2009) (citing CALJIC No. 1.24) (explaining that “actual possession” is direct physical control); See also *People v. Neese*, 272 Cal. App. 2d 235, 244-47 (1969) (describing “constructive possession” as knowingly having access to an item, even if not on person).

<sup>33</sup> For example, “possession” of a hunting license requires an individual to have the license “on their person or in their immediate possession.” Cal. Code Regs. tit. 14, § 700.

The boundaries of the “California condor range” are described as “[t]he department’s deer hunting zone A South, but excluding Santa Cruz, Alameda, Contra Costa, San Mateo, and San Joaquin Counties, areas west of Highway 101 within Santa Clara County, and areas between Highway 5 and Highway 99 within Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and Kern Counties..., [and a]reas within deer hunting zones D7, D8, D9, D10, D11, and D13.”<sup>34</sup>

## **B. Phased-In Lead Ammunition Restrictions**

### **1. Phase 1 Effective July 1, 2015: Wildlife Areas and Ecological Reserves; and Nelson Bighorn Sheep**

As of July 1, 2015, it is unlawful to use ammunition that has not been certified as lead free, or to possess said ammunition in combination with any firearm capable of firing it, when taking: (1) Nelson bighorn sheep anywhere in the state; or (2) any species of wildlife on any “wildlife area”<sup>35</sup> or “ecological reserve”<sup>36</sup> anywhere in the state.”<sup>37</sup>

Since there are over 260 different wildlife areas and ecological reserves within the State of California, it is important to familiarize yourself with the boundaries of those near the location in which you plan to “take” any wildlife species with lead ammunition. A list of California’s wildlife areas and ecological reserves can be found in sections 551, 552, and 630 of title 14 of the California Code of Regulations. A partial list can also be found on the CDFW website.<sup>38</sup>

---

<sup>34</sup> Fish & G. Code § 3004.5(a)(2); *See also* <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=82836&inline> and Appendix A-1 for a map of the California condor range.

<sup>35</sup> A “wildlife area” is an area that the commission has designated as such. Cal. Code Regs. tit. 14, § 551(a).

<sup>36</sup> An “ecological reserve” is an area that the commission has designated as such. Cal. Code Regs. tit. 14, § 630(a).

<sup>37</sup> Cal. Code Regs. tit. 14, § 250.1(d)(1).

<sup>38</sup> California Department of Fish and Wildlife, *Places to Visit: Ecological Reserves and Wildlife Areas of California*, <https://www.wildlife.ca.gov/Lands/Places-to-Visit> (last visited Sept. 8, 2015); *See also* Cal. Code Regs. tit. 14, §§ 551, 630 “A legal description of the boundaries of each wildlife area [and ecological reserve] is on file at the department’s headquarters, 1416 9th Street, Sacramento.” Visitors are responsible for knowing and understanding all applicable regulations prior to entry.” *Id.* **NO REPRESENTATION IS MADE BY THE AUTHORS OF THIS GUIDE THAT THE INFORMATION PROVIDED THEREIN IS ACCURATE.**

Hunters using lead ammunition before July 1, 2019, should be careful if they are moving around or changing spots throughout the day when near these areas. Their boundaries are often unmarked. Hunters using lead ammunition while near these areas are strongly encouraged to confirm with the Department that the areas they intend to hunt are outside of such areas and use GPS devices to ensure they do not enter them.

## **2. Phase 2 Effective July 1, 2016: Additional Restrictions for Shotguns**

Beginning “July 1, 2016, it [is] unlawful to use, or possess with any *shotgun* capable of firing, any projectile(s) not certified as non-lead... when taking:” (1) resident upland game birds, except for dove, quail, and snipe;<sup>39</sup> (2) resident small game mammals;<sup>40</sup> (3) fur-bearing mammals;<sup>41</sup> (4) nongame mammals;<sup>42</sup> (5) nongame birds;<sup>43</sup> or (6) any wildlife for depredation purposes,<sup>44</sup> regardless of whether the take is authorized by a permit.<sup>45</sup>

---

<sup>39</sup> Upland game bird species, less the listed exceptions, include: (1) Sooty or blue grouse; (2) Ruffed grouse; (3) Sage hens or sage grouse; (4) White-tailed ptarmigan; (5) Hungarian partridges; (6) Red-legged partridges including the chukar and other varieties; (7) Ring-necked pheasants and varieties thereof; and (8) Wild turkeys; and (b) Band-tailed pigeons. Fish & G. Code § 3683(a).

<sup>40</sup> Resident small game mammals include: (1) jackrabbits and varying hares (genus *Lepus*); (2) Cottontail rabbits; (3) Brush rabbits; (4) Pigmy rabbits (genus *Sylvilagus*); and (5) Tree squirrels (genus *Sciurus* and *Tamiasciurus*). Cal. Code Regs. tit. 14, § 257.

<sup>41</sup> Fur-bearing mammals include: (1) Pine marten; (2) Fisher; (3) Mink; (4) River otter; (5) Gray fox; (6) Red fox; (7) Kit fox; (8) Raccoon; (9) Beaver; (10) Badger; and (11) Muskrat. Fish & G. Code § 4000.

<sup>42</sup> Nongame mammals are “[a]ll mammals occurring naturally in California which are not game mammals, fully protected mammals, or fur-bearing mammals.” Fish & G. Code § 4150. Accordingly, nongame mammals include all mammals except for: (a) all of the following game mammals: (1) Deer (genus *Odocoileus*); (2) Elk (genus *Cervus*); (3) Prong-horned antelope (genus *Antilocapra*); (4) Wild pigs, including feral pigs and European wild boars (genus *Sus*); (5) Black and brown or cinnamon bears (genus *Euarctos*); (6) Mountain lions (genus *Felis*); (7) Jackrabbits and varying hares (genus *Lepus*); (8) Cottontails; (9) Brush rabbits; (10) Pigmy rabbits (genus *Sylvilagus*); (11) Tree squirrels (genus *Sciurus* and *Tamiasciurus*); and (12) Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*) for the purposes of sport hunting (Fish & G. Code § 4902(b)); (b) all of the following fully protected mammals: (1) Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*); (2) Bighorn sheep (*Ovis canadensis*), except Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*) as provided by section 4902(b); (3) Northern elephant seal (*Mirounga angustirostris*); (4) Guadalupe fur seal (*Arctocephalus townsendi*); (5) Ring-tailed cat (genus *Bassariscus*); (6) Pacific right whale (*Eubalaena sieboldi*); (7) Salt-marsh harvest mouse (*Reithrodontomys raviventris*); (8) Southern sea otter (*Enhydra lutris nereis*); and (9) Wolverine (*Gulo luscus*); and (c) all of the following fur-bearing mammals: (1) Pine marten; (2) Fisher; (3) Mink; (4) River otter; (5) Gray fox; (6) Red fox; (7) Kit fox; (8) Raccoon; (9) Beaver; (10) Badger; and (11) Muskrat. *See* Fish & G. Code §§ 3950, 4700(b), 4000.



It is important to note the distinction between Phase 1’s prohibition against use or possession of lead ammunition with any firearm capable of firing it, and Phase 2’s prohibition applying only to shotguns. This means that, assuming it is otherwise legal to do so, one can use lead ammunition to hunt species affected by Phase 2 or for depredation purposes, if using a rifle or handgun, until July 1, 2019; unless in a state wildlife area or ecological reserve, or as explained below, while hunting *nongame* birds or mammals in the “Condor Range.” See chart in Appendix A-2 below for assistance.

#### **a. Exception for Bird Clubs**

The Phase 2 restriction on using lead ammunition with shotguns when taking upland game birds other than dove, quail, or snipe does not apply when hunting on a “licensed game bird club.”<sup>46</sup> As a result, lead ammunition can be used for taking any game birds<sup>47</sup> other than

---

<sup>43</sup> Nongame birds are “[a]ll birds occurring naturally in California that are not resident game birds, migratory game birds, or fully protected birds.” Fish & G. Code § 3800(a). Accordingly, nongame birds include all birds except for: (a) all of the following resident game birds: (1) Doves of the genus *Streptopelia*, including, but not limited to, spotted doves, ringed turtledoves, and Eurasian collared-doves; (2) California quail and varieties thereof; (3) Gambel’s or desert quail; (4) Mountain quail and varieties thereof; (5) Sooty or blue grouse and varieties thereof; (6) Ruffed grouse; (7) Sage hens or sage grouse; (8) Hungarian partridges; (9) Red-legged partridges including the chukar and other varieties; (10) Ring-necked pheasants and varieties thereof; and (11) Wild turkeys of the order Galliformes; (b) all of the following migratory game birds: (1) Ducks and geese; (2) Coots and gallinules; (3) Jacksnipe; (4) Western mourning doves; (5) White-winged doves; and (6) Band-tailed pigeons; and (c) all of the following fully protected birds: (1) American peregrine falcon (*Falco peregrinus anatum*); (2) Brown pelican; (3) California black rail (*Laterallus jamaicensis coturniculus*); (4) California clapper rail (*Rallus longirostris obsoletus*); (5) California condor (*Gymnogyps californianus*); (6) California least tern (*Sterna albifrons browni*); (7) Golden eagle; (8) Greater sandhill crane (*Grus canadensis tabida*); (9) Light-footed clapper rail (*Rallus longirostris levipes*); (10) Southern bald eagle (*Haliaeetus leucocephalus leucocephalus*); (11) Trumpeter swan (*Cygnus buccinator*); (12) White-tailed kite (*Elanus leucurus*); and (13) Yuma clapper rail (*Rallus longirostris yumanensis*). Fish & G. Code §§ 3500(a), 3500(b), 3511(b).

<sup>44</sup> Wildlife taken for depredation purposes includes any wildlife taken by any individual “who is a property owner or tenant... [who takes wildlife] that are damaging or destroying, or immediately threatening to damage or destroy, land or property.” See Cal. Code Regs. tit. 14, § 401. Specific permitting requirements apply when taking wildlife for depredation purposes, these specifications can be found in sections 401 or 402 of title 14 of the California Code of Regulations. Cal. Code Regs. tit. 14, §§ 401, 402.

<sup>45</sup> Cal. Code Regs. tit. 14, § 250.1(d)(2).

<sup>46</sup> Cal. Code Regs. tit. 14, § 250.1(d)(2)(A).

waterfowl when on land under the authority of a licensed game bird club until the complete ban takes effect on July 1, 2019. Since California does not provide a specific definition for “licensed game bird clubs,” you should confirm in writing with the California Department of Fish and Wildlife and the owner of any place that you intend to hunt that it is considered such a club.<sup>48</sup>

### **3. Phase 3 Effective July, 2019: Statewide Lead Ammunition Ban For All Species**

“[E]ffective July 1, 2019, it shall be unlawful to use, or possess with any firearm capable of firing, any projectile(s) not certified as non-lead when taking any wildlife for any purpose in this state.”<sup>49</sup> Consequently, the distinctions between the restrictions in the “California condor range” and State Wildlife Areas and Ecological Reserves or between shotguns and rifles will no longer be relevant. With few and limited exceptions discussed below, Phase 3 implements a total ban on the “use” or “possession with any firearm capable of firing” it, any ammunition that has not been certified as lead-free when taking any and all wildlife species anywhere within the state of California.

---

<sup>47</sup> Game Birds include *both* resident game birds *and migratory game birds*. Fish & G. Code § 3500(c). Game bird species include: (a) all of the following resident game birds: (1) Doves of the genus *Streptopelia*, including, but not limited to, spotted doves, ringed turtledoves, and Eurasian collared-doves; (2) California quail and varieties thereof; (3) Gambel's or desert quail; (4) Mountain quail and varieties thereof; (5) Sooty or blue grouse and varieties thereof; (6) Ruffed grouse; (7) Sage hens or sage grouse; (8) Hungarian partridges; (9) Red-legged partridges including the chukar and other varieties; (10) Ring-necked pheasants and varieties thereof; and (11) Wild turkeys of the order Galliformes; and (b) all of the following migratory game birds: (1) Ducks and geese; (2) Coots and gallinules; (3) Jacksnipe; (4) Western mourning doves; (5) White-winged doves; and (6) Band-tailed pigeons. Fish & G. Code § 3500(a),(b). The restriction on lead ammo for the migratory game birds like water fowl remain in effect.

<sup>48</sup> See Cal. Code Regs. tit. 14, §§ 600, 600.4 (explaining the licensing requirements along with general provisions for bird clubs).

<sup>49</sup> Cal. Code Regs. tit. 14, § 250.1(d)(3).

### C. Restrictions in the Condor Range

Currently, when taking big game,<sup>50</sup> nongame birds,<sup>51</sup> and nongame mammals<sup>52</sup> within the “California Condor Range” one must use “non-lead ammunition.”<sup>53</sup> For taking wildlife species not among these categories within the Condor Range, the lead ammunition ban does not apply; unless, for the reasons explained above, you are in a wildlife area or ecological reserve or you are using a shotgun after July 1, 2016 to hunt game birds other than dove, quail, or snipe, outside of a licensed game bird club, resident small game mammals, fur bearing mammals, nongame mammals, nongame birds, or to depredate any wildlife species. Consult the Table at Appendix A-2 for further assistance.

These restrictions will “remain in effect in the California condor range unless and until more restrictive lead prohibitions... are implemented”<sup>54</sup> or until July 1, 2019, at which time “non-lead ammunition” will be required statewide for all taking of wildlife. But be aware that prior to July 1, 2019, additional prohibitions may be added. So be sure to confirm the most current rules with the Department before going hunting in the Condor Range.

---

<sup>50</sup> Big game includes all of the following: (1) Deer (genus *Odocoileus*); (2) Elk (genus *Cervus*); (3) Pronghorn antelope (genus *Antilocarpa*); (4) Wild pig (feral pigs, European wild pigs and their hybrids (genus *Sus*); (5) Black bear (genus *Ursus*); and (6) Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*) in the areas described in Fish and Game Code section 4902(b). Cal. Code Regs. tit. 14, § § 350.

<sup>51</sup> See Footnote 41 (above) for definition of “nongame birds.”

<sup>52</sup> See Footnote 40 (above) for definition of “nongame mammals.”

<sup>53</sup> Cal. Code Regs. tit. 14, § 250.1(e). “Subsection (e) [of 250.1] continues the existing restrictions on the use of lead ammunition in the condor range, as required by Fish and Game Code Section 3004.5. These restrictions were formerly set forth in Section 353(h) and Section 475(f) of title 14 of the California Code of Regulations.” Fish and Game Commission, *Notice of Proposed Changes in Regulations*, [http://www.fgc.ca.gov/regulations/2015/250\\_1ntc.pdf](http://www.fgc.ca.gov/regulations/2015/250_1ntc.pdf).

<sup>54</sup> Fish & G. Code § 3004.5(a)(3).

## D. General Exceptions to Lead Ammunition Restrictions

### 1. Possession of Handguns for Self-Defense Exception

The lead ammunition restriction “is [not] intended to prohibit the possession of [handguns]<sup>55</sup> containing lead ammunition, provided that the firearm is possessed for personal protection and is not used to take or assist in the take of wildlife.”<sup>56</sup> So if you are lawfully carrying a *handgun* while hunting,<sup>57</sup> it may contain lead ammunition, provided that the handgun is possessed for the sole purpose of personal protection and is not used to take or assist in the taking of any wildlife.

This exception, however, does not apply within the “California condor range” until after July 1, 2019.<sup>58</sup> Thus, an individual hunting inside of the “California condor range” should not be in possession of non-certified ammunition even if it is intended to be used solely for the purpose of personal protection in a handgun, until after that date; unless, the person is hunting the following species outside of any State Wildlife Area or Ecological Reserve: (1) small game mammals or fur-bearing mammals (and only with a *non-shotgun* after July 1, 2016); or (2) game birds (until July 1, 2016 unless on a licensed game bird club or the target is dove, quail, or snipe).<sup>59</sup> Note that this self-defense handgun exception does not apply when taking *any* wildlife

---

<sup>55</sup> The applicable provision uses the term “concealable firearms,” which under California law means “any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and that has a barrel less than 16 inches in length,” i.e., handguns. Cal. Penal Code § 16530(a).

<sup>56</sup> Cal. Code Regs. tit. 14, § 250.1(c)(3).

<sup>57</sup> A licensed hunter while engaged in hunting is exempt from the restriction on carrying a loaded firearm in public, Cal. Penal Code § 26040, but not from the restriction on carrying one concealed. So, unless the hunter has a valid concealed carry license, the handgun must be carried openly. A licensed hunter while engaged in hunting, or while transporting a firearm when going to or returning from a hunting expedition, is also exempt from the restrictions on carrying handguns openly or concealed, but not necessarily the loaded restriction. Cal. Penal Code §§ 25640, 26366.

<sup>58</sup> Cal. Code Regs. tit. 14, § 250.1(e).

<sup>59</sup> See Cal. Code Regs. tit. 14, §§ 250.1(d); 353; and 475.

*with a shotgun* (even those mentioned in the preceding sentence) within the Condor Range for depredation purposes after July 1, 2016. Please see Table in Appendix A-1 for additional clarification.

## **2. Temporary Exception for “Calibers” that Are Commercially Unavailable in Non-Lead Due to Federal “Armor Piercing Ammunition” Restrictions**

The lead ammunition restriction “shall be temporarily suspended for a specific hunting season and caliber upon a finding by the [Department of Fish and Wildlife] director that non-lead ammunition of a specific caliber is not commercially available from any manufacturer because of federal prohibitions relating to armor-piercing ammunition....”<sup>60</sup> This exception attempts to account for the potential unavailability of some “non-lead ammunition” by the federal law that restricts the sale of projectiles having certain characteristics and that are made of certain non-lead materials.<sup>61</sup> The federal government can declare a given projectile to meet that definition at any time.

Thus, if a particular “caliber” of ammunition is not reasonably available for purchase by the public in non-lead form due to the federal law, the Director must grant a temporary suspension of the ban and allow the use of non-certified ammunition in that “caliber.” Unfortunately, the term “caliber” does not provide sufficient guidance on what projectiles are included.<sup>62</sup> So we will just have to play by ear how any particular projectile is affected and deal with it on a case-by-case basis.

---

<sup>60</sup> Fish & G. Code § 3004.5(b),(j)(1).

<sup>61</sup> 18 U.S.C.A. §§ 921(a)(17)(B-C), 922(a)(8).

<sup>62</sup> Many bullets of the same caliber can be loaded in different size cartridges. For example, the same .30 caliber bullet can be loaded into a .300 Savage, .308 Winchester, .30-06 Springfield, .300 Remington Short Action Ultra Magnum, .300 Winchester Short Magnum, .300 H&H Magnum, .308 Norma Magnum, 300 Winchester Magnum, 300 Weatherby Magnum, 300 Remington Ultra Magnum, and 30-378 Weatherby Magnum, all of which are distinct cartridges that serve a specific purpose with their unique performance characteristics. *See also ATF Framework For*

Note that this exception does not apply “when taking big game mammals, nongame birds, or nongame mammals in the ‘California condor range.’”<sup>63</sup> This means that this exception will only apply within the California condor range when hunting small game. And unlike the exception for self-defense handguns, this distinction for the Condor Range will *not* expire on July 1, 2019.

### **3. Law Enforcement Engaged in Official Duties Exception**

Law enforcement and other government officials are also exempt from this section, but only if “carrying out a statutory duty required by law.”<sup>64</sup> This means that law enforcement officers engaging in recreational hunting are not exempt from the lead ammunition restrictions.

#### **E. Penalties**

Except for where waterfowl is involved,<sup>65</sup> anyone who violates the restrictions on the use of lead ammunition faces an infraction punishable by a fine of \$500, with second time offenses resulting in a fine between \$1,000- \$5,000.<sup>66</sup> Although violations are not misdemeanors or felonies, it can still be very costly. In addition to the possible fine, court costs can be very significant, multiple hundreds of dollars, and attorney fees even more so if necessary. Also, consider that if your violation occurred a significant distance from your residence, you could also face significant travel expenses to and from court.

---

*Determining Whether Certain Projectiles Are “Primarily Intended For Sporting Purposes” Within the Meaning of 18 U.S.C. 921(a)(17)(C), available at <https://www.atf.gov/file/11266/download>.* (noting that the projectiles used in handguns are interchangeable among models designed to use the same or similar calibers).

<sup>63</sup> Fish & G. Code § 3004.5(b),(j)(2).

<sup>64</sup> Fish & G. Code § 3004.5(h).

<sup>65</sup> Violations of the federal regulations governing waterfowl can result in a misdemeanor which can carry a fine up to \$15,000 and imprisonment up to six months, 16 U.S.C.A. § 707(a), as well as civil penalties and seizure of property, *see* 50 C.F.R. §§ 11.1, 12.1. In addition to the federal regulations, violations of state regulations can result in an infraction punishable as a fine between \$100 and \$1,000, or a misdemeanor. Cal. Fish & Game Code § 12000.

<sup>66</sup> Fish & G. Code § 3004.5(g).

## **1. Other Considerations**

### **A. Water Fowl**

Since 1991, federal law has prohibited the use of loose shot for muzzle loading or shotshells that contain more than 1 percent residual lead when hunting certain types of migratory game birds, including ducks, geese, swans, coots, and any other species that make up aggregate bag limits during concurrent seasons.<sup>67</sup> In addition to the federal restrictions, California also requires the use of nontoxic shot when hunting American Coot and Common Moorhen.<sup>68</sup> AB 711 does not alter or remove either of these restrictions, nor are they affected by the separate Phases of AB 711.

### **B. Military Lands/Bases**

Some military lands that are open to hunting, like Fort Hunter Liggett and Camp Roberts, require the use of non-lead ammunition, even if state law restrictions do not apply. It is important to note that violating such restrictions while hunting on military land is subject to the penalties imposed by the Commanding Officer of the base. On Fort Hunter Liggett, for example, violations “may result in a permanent or temporary suspension of [hunting] privileges, immediate seizure of game . . . and a citation under state or federal law” in addition to “barment from the installation.”<sup>69</sup> Hunters are strongly encouraged to consult base policy prior to any hunting activity to ensure compliance with such policies so you don’t get turned away the day of the hunt or worse.

---

<sup>67</sup> 50 C.F.R. § 20.21(j)(1-3).

<sup>68</sup> Cal. Code Regs. tit. 14, § 507.1.

<sup>69</sup> See Department of the Army, United States Army Garrison Fort Hunter Liggett, *Policy #68, Hunting and Fishing Policy*, <http://fhlfmwr.com/files/fish&hunt/Policy%2068-%20Hunting%20and%20Fishing%202%20May%2014.pdf> (last visited Sept. 10, 2015).

## V. CONCLUSION

Hunting in California prior to July 1, 2019, with ammunition that has not been certified as “non-lead ammunition” can be tricky. In particular situations, various restrictions may apply, whereas in others none apply. Before hunting, it is strongly recommended that you contact the appropriate agency charged with the regulation or management of the area in which you intend to hunt in order to determine what the specific ammunition restrictions in place are to ensure that you are in compliance with all regulatory and statutory schemes. It is also important to be aware of the ammunition you are carrying, as well as all firearms you are carrying and their capability of firing a certain caliber projectile.

On that note, we strongly encourage all hunters to contact the Wildlife Branch, Game Management with any compliance questions at:

**Wildlife Branch, Game Management**

1812 9th Street, Sacramento, CA 95811

(916) 445-0411

If you need to speak to someone regarding non-lead ammunition restrictions affecting you personally, please contact **California Rifle & Pistol Association** at:

Fullerton, CA 92835

Tel: (800) 305-2772

Email: [contact@CRPA.org](mailto:contact@CRPA.org)

If you have questions or suggestions about the content of this Guide, please send them to:

Email: [helpdesk@michellawyers.com](mailto:helpdesk@michellawyers.com)

**Help Us Help You**

Please help us fight for your right to choose to own a gun for sport, or to defend yourself and your family. [NRA](https://home.nra.org/) (https://home.nra.org/) and [CRPA](http://www.crpa.org/) (http://www.crpa.org/) and work



together in California to fight for you in Sacramento, in cities and counties across the state, in regulatory agencies, and in the courts. Even with the generous rates that our team of civil rights attorneys, legislative advocates, experts and consultants grant us; these ongoing efforts are still expensive. You can support our pro-Second Amendment efforts in California by donating to the [CRPA Foundation](http://www.crpa.org/about-the-crpa-foundation/) (<http://www.crpa.org/about-the-crpa-foundation/>). CRPAF is a 501(c) (3), so contributions to CRPAF are tax-deductible. Or donate to the [NRA Legal Action Project](https://www.nrailadonate.org/forms/default.asp?campaignid=2013LegalAction) (<https://www.nrailadonate.org/forms/default.asp?campaignid=2013LegalAction>). All donations will be spent to specifically benefit California gun owners.

Second Amendment supporters should be careful about supporting litigation or other efforts promised by individuals and groups that lack the experience, resources, skill, or legal talent to be successful. The NRA and CRPA national team of highly regarded civil rights attorneys, legislative advocates, and scholars has the experience, resources, skill and expertise needed to maximize the potential for victory in California's often hostile political environments.

For a summary of current and recent actions NRA and CRPA have taken on behalf of California gun owners, [click here](http://michellawyers.com/wp-content/uploads/2015/04/NRA-CRPA-California-Legal-Affairs-Report1.pdf) (<http://michellawyers.com/wp-content/uploads/2015/04/NRA-CRPA-California-Legal-Affairs-Report1.pdf>). To read about some of the past actions NRA and CRPA have taken in the fight for your Second Amendment rights in California [click here](http://michellawyers.com/wp-content/uploads/2015/04/NRA-CRPA-California-Closed-Legal-Matters-Report.pdf) (<http://michellawyers.com/wp-content/uploads/2015/04/NRA-CRPA-California-Closed-Legal-Matters-Report.pdf>).

## Appendix A-1

<b>Green=</b> Lead projectiles allowed until either 7/1/16 or 7/1/19 (as stated) <b>Red=</b> Lead projectile use illegal*	<b>Wildlife Area or Ecological Reserve [WA/ER]**</b>	<b>Condor Range (CR)*** (excluding any WA/ER therein)</b>	<b>All other legal hunting areas not in CR or WA/ER</b>
Nelson bighorn sheep ("NBS") <sub>1</sub>			
Big game (Excluding NBS) <sub>2</sub>			until 7/1/19
Non-game mammals <sub>3</sub>			until 7/1/16 (shotgun), 7/1/19 (non-shotgun)
Furbearing mammals <sub>4</sub>		until 7/1/19 or 7/1/16 if taking is by shotgun <i>and</i> under depredation permit	until 7/1/16 (shotgun), 7/1/19 (non-shotgun)
Resident small game mammals <sub>5</sub>		until 7/1/19 or 7/1/16 if taking is by shotgun <i>and</i> under depredation permit	until 7/1/16 (shotgun), 7/1/19 (non-shotgun)
Upland game birds (excluding dove, quail, snipe & game birds taken under the authority of a licensed game bird club) <sub>6</sub>		until 7/1/16 (shotgun)	until 7/1/16 (shotgun)
Dove, quail, snipe & birds at licensed game bird club (except waterfowl, Am. coot & common moorhen) <sub>7</sub>		until 7/1/19 or 7/1/16 if taking is by shotgun <i>and</i> under depredation permit	until 7/1/19 or 7/1/16 if taking is (1) by shotgun <i>and</i> (2) under depredation permit
Non-game birds <sub>8</sub>			until 7/1/16 (shotgun), 7/1/19 (non-shotgun)
Waterfowl, Am. coot & common moorhen <sub>9</sub>			
Any species with a valid depredation permit <sub>10</sub>		Dependent upon the species being taken: see limitations described above	until 7/1/16 (shotgun), 7/1/19 (non-shotgun)

1. 14 C.C.R. §§ 250.1(d)(1)(A), (B); 353(a).
2. 14 C.C.R. §§ 250.1(d)(1)(B), (d)(3)-(e); 353(a).
3. 14 C.C.R. §§ 250.1(d)(1)(B), (2)(D), (3)-(e); 475(f).
4. 14 C.C.R. §§ 250.1(d)(1)(B), (2)(C), (3); 465(a).
5. 14 C.C.R. §§ 250.1(d)(1)(B), (2)(B), (d)(3); 311(a).
6. 14 C.C.R. §§ 250.1(d)(1)(B), (2)(A),(d)(3); 311(a).
7. 14 C.C.R. §§ 250.1(d)(1)(B), (3)-(e); 311(a).
8. 14 C.C.R. §§ 250.1(d)(1)(E), (e); 475(f).
9. 14 C.C.R. § 507.1.
10. 14 C.C.R. §§ 250.1(d)(2)(F)-(e); 401(d)(1).

It is always a good idea to contact the Department of Fish & Wildlife if you have questions about a planned hunt, especially if you plan to use lead-based ammunition and there is a possibility you could unknowingly enter a non-lead zone while in pursuit. For regional office phone numbers, visit <https://www.wildlife.ca.gov/Regions>. Violations of California's new lead ban are treated as infractions punishable by a fine of \$500 for a first offense, and a fine of at least \$1,000, and up to \$5,000, for any subsequent offense. Fish & Game Code § 3004.5(g).

*\*As to any lead projectile that hunters in California are or will be prohibited from using under current law, it is possible such prohibition could be suspended for a specific hunting season as to a specific caliber (effective at all legal hunting areas **except within the CR**), but **only** if the director of California's Fish & Wildlife makes a public finding that the particular caliber is (1) "not commercially available" in a non-lead version (2) "because of federal prohibitions relating to armor-piercing ammunition[.]" Fish & Game Code §3004.5(j)(1)-(2).*

*\*\*Hunting with lead projectiles in a WA/ER, as defined in 14 C.C.R. §§ 551, 552, 630, is prohibited. 14 C.C.R. § 250.1(d)(1)(B). This prohibition likely applies to all WA/ERs, even on WA/ER land that is also in the CR or on federal land. Possession of lead projectiles and a concealable firearm capable of firing such projectiles is legal while hunting in a WA/ER if the concealable firearm is possessed for self-defense only and not used for hunting purposes. 14 C.C.R. §§ 250.1(c)(3). A map showing California's WA/ER is located at <https://map.dfg.ca.gov/lands/>.*

*\*\*\* A map showing the boundaries of the CR is located at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=82836>. The possession of lead projectiles and a concealable firearm (e.g., a pistol) capable of firing such projectiles while hunting in the CR is legal if (1) the concealable firearm is possessed for self-defense only (i.e., not use for hunting), and (2) either: the hunting is occurring after June 30, 2019, or the animal being hunted is not classified as big game, a nongame bird, or a nongame mammal. 14 C.C.R. §§ 250.1(c)(3), 250.1(e). It is recommended the foregoing rule be followed as to any hunting within the CR, even when hunting on WA/ER land that is within the CR.*

*\*\*\*\*This table is not intended to be used to determine the legality of hunting with a particular combination of firearm type, location, and species. Rather, its purpose is limited to assisting hunters attempting to determine whether lead-based ammunition can be used in an otherwise legal hunting scenario. For example, some big game species (i.e., deer, bear, and wild pigs) can be taken with shotguns, while others (e.g., elk) cannot. 14 C.C.R. § 353(c)-(d). The fact that this table indicates big game can be legally taken with a shotgun in some instances should not be understood as a statement that all big game species can be legally taken with a shotgun.*

## Appendix A-2

### Fish & Game Code § 3004.5(a)(2)

(2) For purposes of this section, “California condor range” means:

(A) The department's deer hunting zone A South, but excluding Santa Cruz, Alameda, Contra Costa, San Mateo, and San Joaquin Counties, areas west of Highway 101 within Santa Clara County, and areas between Highway 5 and Highway 99 within Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and Kern Counties.

(B) Areas within deer hunting zones D7, D8, D9, D10, D11, and D13.

